



General Assembly

**Substitute Bill No. 473**

February Session, 2010

\* \_\_\_\_SB00473GAE\_\_032510\_\_ \*

**AN ACT CONCERNING STATE CONTRACTING, A PILOT PROGRAM  
AND THE PREQUALIFICATION OF CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) For any contract entered  
2       into between a state agency and a private service provider after July 1,  
3       2010, when the state agency reduces the funding amount under the  
4       contract by three per cent or more during any fiscal year, the private  
5       service provider may adjust its budget expenditures in an amount  
6       equal to the funding reduction without the agency's approval.

7       Sec. 2. Subsection (b) of section 4a-82 of the general statutes is  
8       repealed and the following is substituted in lieu thereof (*Effective from*  
9       *passage*):

10       (b) The Commissioner of Administrative Services shall establish a  
11       pilot program, for a term of [four] seven years, to create and expand  
12       janitorial work job opportunities for persons with a disability and  
13       persons with a disadvantage. Such pilot program shall consist of four  
14       identified projects for janitorial work. The program shall create a  
15       minimum of sixty full-time jobs or sixty full-time equivalents at  
16       standard wages for persons with disabilities and persons with  
17       disadvantages and have a total market value for all janitorial contracts  
18       awarded under the program of at least three million dollars. In  
19       establishing such pilot program, the Commissioner of Administrative

20 Services may consult with the Commissioner of Social Services and the  
21 Labor Commissioner.

22 Sec. 3. Subsection (i) of section 4a-100 of the 2010 supplement to the  
23 general statutes is repealed and the following is substituted in lieu  
24 thereof (*Effective October 1, 2010*):

25 (i) The commissioner may [not issue or renew] deny a  
26 prequalification certificate to any contractor or substantial  
27 subcontractor (1) who is disqualified pursuant to section 31-57c or 31-  
28 57d, [or] (2) who has a principal or key personnel who, within the past  
29 five years, has a conviction or has entered a plea of guilty or nolo  
30 contendere for or has admitted to commission of an act or omission  
31 that reasonably could have resulted in disqualification pursuant to any  
32 provision of subdivisions (1) to (3), inclusive, of subsection (d) of  
33 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of  
34 section 31-57d, as determined by the commissioner, or (3) who, within  
35 the past three years, has received four or more unsatisfactory written  
36 evaluations.

37 Sec. 4. Subsection (o) of section 4a-100 of the 2010 supplement to the  
38 general statutes is repealed and the following is substituted in lieu  
39 thereof (*Effective October 1, 2010*):

40 (o) Any contractor or substantial subcontractor aggrieved by the  
41 commissioner's final determination concerning a preliminary  
42 determination, a denial of certification, a reduction in prequalification  
43 classification or aggregate work capacity rating or a revocation [or  
44 nonrenewal] of certification may appeal to the Superior Court in  
45 accordance with section 4-183.

46 Sec. 5. Subsection (e) of section 4a-101 of the 2010 supplement to the  
47 general statutes is repealed and the following is substituted in lieu  
48 thereof (*Effective October 1, 2010*):

49 (e) No person, public agency, employee of a public agency or  
50 certifying official of a public agency shall be held liable to any

51 contractor, substantial subcontractor or subcontractor for any loss or  
52 injury sustained by such contractor, substantial subcontractor or  
53 subcontractor as the result of the completion of an evaluation form, as  
54 required by this section or by section 4a-100, as amended by this act,  
55 unless such person, agency, employee or official is found by a court of  
56 competent jurisdiction to have acted in a wilful, wanton or reckless  
57 manner.

58 Sec. 6. Subsection (a) of section 4a-100 of the 2010 supplement to the  
59 general statutes is repealed and the following is substituted in lieu  
60 thereof (*Effective October 1, 2010*):

61 (a) As used in this section: (1) "Prequalification" means  
62 prequalification issued by the Commissioner of Administrative  
63 Services to bid on a contract or perform work pursuant to a contract  
64 for the construction, reconstruction, alteration, remodeling, repair or  
65 demolition of any public building or any other public work by the state  
66 or a municipality, [except] including a public highway or bridge  
67 project or any other construction project administered by the  
68 Department of Transportation, [or] except to perform work under such  
69 a contract as a substantial subcontractor; (2) "subcontractor" means a  
70 person who performs work with a value in excess of twenty-five  
71 thousand dollars for a contractor pursuant to a contract for work for  
72 the state or a municipality which is estimated to cost more than five  
73 hundred thousand dollars; (3) "principals and key personnel" includes  
74 officers, directors, shareholders, members, partners and managerial  
75 employees; (4) "aggregate work capacity rating" means the maximum  
76 amount of work an applicant is capable of undertaking for any and all  
77 projects; (5) "single project limit" means the highest estimated cost of a  
78 single project that an applicant is capable of undertaking; (6) "contract"  
79 means an agreement for work for the state or a municipality that is  
80 estimated to cost more than five hundred thousand dollars and is  
81 funded, in whole or in part, by state funds; and (7) "substantial  
82 subcontractor" means a person who performs work with a value in  
83 excess of five hundred thousand dollars for a contractor pursuant to a  
84 contract for work for the state or a municipality which is estimated to

85 cost more than five hundred thousand dollars.

86 Sec. 7. Subsection (l) of section 4a-100 of the 2010 supplement to the  
87 general statutes is repealed and the following is substituted in lieu  
88 thereof (*Effective October 1, 2010*):

89 (l) The commissioner shall provide written notice of any revocation,  
90 disqualification, reduction in classification or capacity rating or  
91 reinstated prequalification to the Commissioner of Public Works, the  
92 Commissioner of Transportation, the Commissioner of Consumer  
93 Protection and the President of The University of Connecticut not later  
94 than thirty days after any final determination.

95 Sec. 8. Section 4b-91 of the 2010 supplement to the general statutes is  
96 repealed and the following is substituted in lieu thereof (*Effective*  
97 *October 1, 2010*):

98 (a) Every contract for the construction, reconstruction, alteration,  
99 remodeling, repair or demolition of any public building or any other  
100 public work by the state [except] including a public highway or bridge  
101 project or any other construction project administered by the  
102 Department of Transportation, which is estimated to cost more than  
103 five hundred thousand dollars, except a contract awarded by the  
104 Commissioner of Public Works for (1) a community court project, as  
105 defined in subsection (j) of section 4b-55, (2) the downtown Hartford  
106 higher education center project, as defined in subsection (l) of section  
107 4b-55, (3) a correctional facility project, as defined in subsection (m) of  
108 section 4b-55, (4) a juvenile detention center project, as defined in  
109 subsection (n) of section 4b-55, or (5) a student residential facility for  
110 the Connecticut State University System that is a priority higher  
111 education facility project, as defined in subsection (f) of section 4b-55,  
112 shall be awarded to the lowest responsible and qualified general  
113 bidder who is prequalified pursuant to section 4a-100, as amended by  
114 this act, on the basis of competitive bids in accordance with the  
115 procedures set forth in this chapter, after the Commissioner of Public  
116 Works or, in the case of a contract for the construction of or work on a

117 building or other public work under the supervision and control of the  
118 Joint Committee on Legislative Management of the General Assembly,  
119 the joint committee or, in the case of a contract for the construction of  
120 or work on a building or other public work under the supervision and  
121 control of one of the constituent units of the state system of higher  
122 education, the constituent unit or, in the case of a contract for a public  
123 highway or bridge project or other construction project administered  
124 by the Department of Transportation, the Commissioner of  
125 Transportation, has invited such bids by notice posted on the State  
126 Contracting Portal. Every contract for the construction, reconstruction,  
127 alteration, remodeling, repair or demolition of any public building or  
128 any other public work by a public agency that is paid for, in whole or  
129 in part, with state funds and that is estimated to cost more than five  
130 hundred thousand dollars [, except a public highway or bridge project  
131 or any other construction project administered by the Department of  
132 Transportation,] shall be awarded to a bidder that is prequalified  
133 pursuant to section 4a-100, as amended by this act, after the public  
134 agency has invited such bids by notice posted on the State Contracting  
135 Portal. The Commissioner of Public Works, the Commissioner of  
136 Transportation, the joint committee, the constituent unit or the public  
137 agency, as the case may be, shall indicate the prequalification  
138 classification required for the contract in such notice. As used in this  
139 section, "prequalification classification" means the prequalification  
140 classifications established by the Commissioner of Administrative  
141 Services pursuant to section 4a-100, as amended by this act. As used in  
142 this section, "public agency" means public agency, as defined in section  
143 1-200.

144 (b) The Commissioner of Public Works, the Commissioner of  
145 Transportation, the joint committee or the constituent unit, as the case  
146 may be, shall determine the manner of submission and the conditions  
147 and requirements of such bids, and the time within which the bids  
148 shall be submitted, consistent with the provisions of sections 4b-91 to  
149 4b-96, inclusive, as amended by this act. Such award shall be made not  
150 later than ninety days after the opening of such bids. If the general

151 bidder selected as the general contractor fails to perform the general  
152 contractor's agreement to execute a contract in accordance with the  
153 terms of the general contractor's general bid and furnish a performance  
154 bond and also a labor and materials or payment bond to the amount  
155 specified in the general bid form, an award shall be made to the next  
156 lowest responsible and qualified general bidder. No employee of the  
157 Department of Public Works, the Department of Transportation, the  
158 joint committee or a constituent unit with decision-making authority  
159 concerning the award of a contract and no public official, as defined in  
160 section 1-79, may communicate with any bidder prior to the award of  
161 the contract if the communication results in the bidder receiving  
162 information about the contract that is not available to other bidders,  
163 except that if the lowest responsible and qualified bidder's price  
164 submitted is in excess of funds available to make an award, the  
165 Commissioner of Public Works, the Commissioner of Transportation,  
166 the Joint Committee on Legislative Management or the constituent  
167 unit, as the case may be, may negotiate with such bidder and award  
168 the contract on the basis of the funds available, without change in the  
169 contract specifications, plans and other requirements. If the award of a  
170 contract on said basis is refused by such bidder, the Commissioner of  
171 Public Works, the Commissioner of Transportation, the Joint  
172 Committee on Legislative Management or the constituent unit, as the  
173 case may be, may negotiate with other contractors who submitted bids  
174 in ascending order of bid prices without change in the contract,  
175 specifications, plans and other requirements. In the event of  
176 negotiation with general bidders as provided in this section, the  
177 general bidder involved may negotiate with subcontractors on the  
178 same basis, provided such general bidder shall negotiate only with  
179 subcontractors named on such general bidder's general bid form.

180 (c) No person may bid on a contract or perform work pursuant to a  
181 contract that is subject to the provisions of subsection (a) of this section  
182 unless the person is prequalified in accordance with section 4a-100, as  
183 amended by this act.

184 (d) Each bid submitted for a contract described in subsection (c) of

185 this section shall include an update bid statement in such form as the  
186 Commissioner of Administrative Services prescribes and, if required  
187 by the public agency soliciting such bid, a copy of the prequalification  
188 certificate issued by the Commissioner of Administrative Services. The  
189 form for such update bid statement shall provide space for information  
190 regarding all projects completed by the bidder since the date the  
191 bidder's prequalification certificate was issued or renewed, all projects  
192 the bidder currently has under contract, including the percentage of  
193 work on such projects not completed, the names and qualifications of  
194 the personnel who will have supervisory responsibility for the  
195 performance of the contract, any significant changes in the bidder's  
196 financial position or corporate structure since the date the certificate  
197 was issued or renewed, any change in the contractor's qualification  
198 status as determined by the provisions of subdivision (6) of subsection  
199 (c) of section 4a-100 and such other relevant information as the  
200 Commissioner of Administrative Services prescribes. Any bid  
201 submitted without a copy of the prequalification certificate, if required  
202 by the public agency soliciting such bid, and an update bid statement  
203 shall be deemed invalid. Any public agency that accepts a bid  
204 submitted without a copy of such prequalification certificate, if  
205 required by such public agency soliciting such bid, and an update bid  
206 statement may become ineligible for the receipt of funds related to  
207 such bid.

208 (e) Any person who bids on a contract described in subsection (c) of  
209 this section shall certify under penalty of false statement at the  
210 conclusion of the bidding process that the information in the bid is  
211 true, that there has been no substantial change in the bidder's financial  
212 position or corporate structure since the bidder's most recent  
213 prequalification certificate was issued or renewed, other than those  
214 changes noted in the update bid statement, and that the bid was made  
215 without fraud or collusion with any person.

216 (f) Any person who receives information from a state employee or  
217 public official that is not available to the general public concerning any  
218 construction, reconstruction, alteration, remodeling, repair or

219 demolition project on a public building or any other public work prior  
220 to the date that a notice for bids on the project is posted shall be  
221 disqualified from bidding on the project.

222 (g) Notwithstanding the provisions of this chapter regarding  
223 competitive bidding procedures, the commissioner may select and  
224 interview at least three responsible and qualified general contractors  
225 who are prequalified pursuant to section 4a-100, as amended by this  
226 act, and submit the three selected contractors to the construction  
227 services award panels process described in section 4b-100a and any  
228 regulation adopted by the commissioner. The commissioner may  
229 negotiate with the successful bidder a contract which is both fair and  
230 reasonable to the state for a community court project, as defined in  
231 subsection (j) of section 4b-55, the downtown Hartford higher  
232 education center project, as defined in subsection (l) of section 4b-55, a  
233 correctional facility project, as defined in subsection (m) of section 4b-  
234 55, a juvenile detention center project, as defined in subsection (n) of  
235 section 4b-55, or a student residential facility for the Connecticut State  
236 University System that is a priority higher education facility project, as  
237 defined in subsection (f) of section 4b-55. The Commissioner of Public  
238 Works, prior to entering any such contract or performing any work on  
239 such project, shall submit such contract to the State Properties Review  
240 Board for review and approval or disapproval by the board, pursuant  
241 to subsection (i) of this section. Any general contractor awarded a  
242 contract pursuant to this subsection shall be subject to the same  
243 requirements concerning the furnishing of bonds as a contractor  
244 awarded a contract pursuant to subsection (b) of this section.

245 (h) Any agency that seeks to have a project awarded without being  
246 subject to competitive bidding procedures shall certify to the joint  
247 committee of the General Assembly having cognizance of matters  
248 relating to government administration and elections that the project is  
249 of such an emergency nature that an exception to the competitive  
250 bidding procedures of this section is required. Such certification shall  
251 include input from all affected agencies, detail the need for the  
252 exception and include any relevant documentation.



253 (i) In the event that the General Assembly approves legislation  
254 authorizing an exception to the competitive bidding process for a  
255 project, the State Properties Review Board shall complete a review of  
256 the contract for such project and approve or disapprove such contract  
257 no later than thirty days after the Commissioner of Public Works  
258 submits such contract to the board. Such review shall be conducted in  
259 accordance with the provisions of section 4b-3. In the event that such  
260 review does not occur within the thirty-day period prescribed by this  
261 subsection, such contract shall be deemed to be approved.

262 (j) On and after October 5, 2009, no person whose subcontract  
263 exceeds five hundred thousand dollars in value may perform work as  
264 a subcontractor on a project for the construction, reconstruction,  
265 alteration, remodeling, repair or demolition of any public building or  
266 any other public work by the state or a municipality, [except a public  
267 highway or bridge project or any other construction project  
268 administered by the Department of Transportation,] which project is  
269 estimated to cost more than five hundred thousand dollars and is paid  
270 for, in whole or in part, with state funds, unless the person is  
271 prequalified in accordance with section 4a-100, as amended by this act.  
272 The provisions of this subsection shall not apply to a project described  
273 in subdivision (2) of subsection (a) of this section.

274 Sec. 9. Section 13a-95 of the general statutes is repealed and the  
275 following is substituted in lieu thereof (*Effective October 1, 2010*):

276 The commissioner may, at any time, call for bids to construct, alter,  
277 reconstruct, improve, relocate, widen or change the grade of sections  
278 of state highways or bridges. All bids shall be submitted on forms  
279 provided by the commissioner and shall comply with the rules and  
280 regulations provided in the bid specifications. The commissioner shall  
281 state the amount of the bond which shall accompany each bid and  
282 shall name the place where bids shall be received and the time and  
283 place for opening the same. Each bid shall be accompanied by a surety  
284 company bond satisfactory to the commissioner and in such sum as  
285 the commissioner determines, and shall be so conditioned that, if the

286 contract is awarded to the bidder, such bidder shall, when required by  
287 the commissioner, execute an agreement in writing, to be prepared by  
288 said commissioner, with such bond as shall be acceptable to the  
289 commissioner, conditioned as provided in section 49-41. The  
290 commissioner may reject any and all bids if, in the commissioner's  
291 opinion, cause exists therefor; but otherwise the commissioner shall  
292 award the contract to the lowest bidder deemed to be responsible,  
293 provided such bidder is prequalified pursuant to section 4a-100, as  
294 amended by this act. The successful bidder shall give evidence  
295 satisfactory to said commissioner of such bidder's ability to perform  
296 the contract. When such contract is executed by the commissioner and  
297 the successful bidder, a copy of the contract, with an estimate of the  
298 cost of the work, shall be immediately filed with the commissioner.

299 Sec. 10. Section 13b-20n of the general statutes is repealed and the  
300 following is substituted in lieu thereof (*Effective October 1, 2010*):

301 With respect to any contract for the construction, reconstruction,  
302 alteration, remodeling, repair or demolition of any public building  
303 under the supervision and control of the Commissioner of  
304 Transportation which contract is estimated to cost more than five  
305 hundred thousand dollars and is not subject to section 4b-51, the  
306 Commissioner of Transportation shall award the contract to the lowest  
307 responsible and qualified bidder, as defined in section 4b-92, in  
308 accordance with regulations which the commissioner shall adopt, in  
309 accordance with chapter 54 and who has been prequalified pursuant to  
310 section 4a-100, as amended by this act. Such regulations shall establish,  
311 at a minimum: (1) Standards for the advertisement of opportunities to  
312 bid, (2) objective criteria for evaluating the qualifications of bidders, (3)  
313 the procedures for evaluating bids after the prequalification status of a  
314 bidder has been verified, and (4) award panels for the purpose of  
315 screening submitted proposals, interviewing bidders and making  
316 recommendations to the commissioner. Any contract that is subject to  
317 section 4b-51 shall be awarded by the Commissioner of Public Works  
318 in accordance with chapter 60.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	4a-82(b)
Sec. 3	<i>October 1, 2010</i>	4a-100(i)
Sec. 4	<i>October 1, 2010</i>	4a-100(o)
Sec. 5	<i>October 1, 2010</i>	4a-101(e)
Sec. 6	<i>October 1, 2010</i>	4a-100(a)
Sec. 7	<i>October 1, 2010</i>	4a-100(l)
Sec. 8	<i>October 1, 2010</i>	4b-91
Sec. 9	<i>October 1, 2010</i>	13a-95
Sec. 10	<i>October 1, 2010</i>	13b-20n

**GAE**      *Joint Favorable Subst.*